

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:
YORAM ZER
APPELFELD ZER LAW OFFICE
29 LILINBLUM
TEL AVIV, ISRAEL 61133

APPELFELD ZER
28-11-2005
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NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Date of mailing
(day/month/year)

16 NOV 2005

Applicant's or agent's file reference
B-0043-0000

FOR FURTHER ACTION See paragraphs 1 and 4 below

International application No.
PCT/IL04/00822

International filing date
(day/month/year) 09 September 2004 (09.09.2004)

Applicant
BARAK, YEHOASHUA

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 338.82.70.

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
- ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/ US
Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Facsimile No. (703) 305-3230

Authorized officer

Michael Colajanni

Telephone No. 571-272-1100

DEBORAH A. THOMAS
PARALEGAL SPECIALIST
GROUP 1208

(See notes on accompanying sheet)

PATENT COOPERATION TREATY

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INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference B-0043-0000	FOR FURTHER ACTION <small>see Form PCT/ISA/220 as well as, where applicable, item 5 below.</small>	
International application No. PCT/IL04/00822	International filing date (<i>day/month/year</i>) 09 September 2004 (09.09.2004)	(Earliest) Priority Date (<i>day/month/year</i>) 16 September 2003 (16.09.2003)
Applicant BARAK, YBHOSHUA		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 11 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the Report

a. With regard to the language, the international search was carried out on the basis of:

☒ the international application in the language in which it was filed.
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

b. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. ☐ Certain claims were found unsearchable (See Box No. II)

3. ☐ Unity of invention is lacking (See Box No. III)

4. With regard to the title,

☐ the text is approved as submitted by the applicant.

☒ the text has been established by this Authority to read as follows:

Please See Continuation Sheet

5. With regard to the abstract,

☐ the text is approved as submitted by the applicant.

☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

a. the figure of the drawings to be published with the abstract is Figure No. 10

☒ as suggested by the applicant.

☐ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

b. ☐ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/IL04/00822

Box IV TEXT OF THE ABSTRACT (Continuation of Item 5 of the first sheet)

The technical features mentioned in the abstract do not include a reference sign between parentheses (PCT Rule 8.1(d)).

A specially designed insert for orthopedic insoles and a process for manufacturing said insole, the use of which prevents the foot from bending excessively at the metatarsal joints, thereby protecting the skin in the area of the metatarsal heads of the forefoot on the bottom of the foot and preventing that skin from stretching, cracking, or being otherwise damaged. The heel reaches a height (M) along a line between one point (I) and another (J). A step is completed when the user's toes reach the ground (A), with significantly reduced bending of the foot at the area of the five metatarsal heads of the forefoot. Along a line between one point (K) and another point (L), the foot remains relatively straight throughout the entire process of taking a step. The metatarsal head (E) exhibits minimal bending.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/IL04/00822

A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : B29C 33/40; A43B 13/38

US CL : 264/219, 222, 223; 36/43

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 264/219, 222, 223; 36/43

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 4,702,255 (SCHENKL) 27 October 1987 (27.10.1987), entire document.	1-8



Further documents are listed in the continuation of Box C.



See patent family annex.

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"B" earlier application or patent published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T"

later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X"

document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y"

document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"&"

document member of the same patent family

Date of the actual completion of the international search

30 October 2005 (30.10.2005)

Date of mailing of the international search report

16 NOV 2005

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Michael Colaiaanni

Telephone No. 571-272-1100

DEBORAH A. THOMAS
PARALEGAL SPECIALIST

GROUP 4380

DCT

INTERNATIONAL SEARCH REPORT

International application No.
PCT/IL04/00822

Continuation of Item 4 of the first sheet:

The previously given title is not short (preferable 2-7 words) and contains a misspelled word. This text of the suggested new title is:

Orthopedic Insoles for Protecting Skin from Stretching and Cracking in the Area of the Five Metatarsal Heads of the Forefoot

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
YORAM ZER
APPELFELD ZER LAW OFFICE
29 LILINBLUM
TEL AVIV, ISRAEL 65133

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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference		Date of mailing (day/month/year)	16 NOV 2005
B-0043-0000		FOR FURTHER ACTION See paragraph 2 below	
International application No.	International filing date (day/month/year)	Priority date (day/month/year)	
PCT/IL04/00822	09 September 2004 (09.09.2004)	16 September 2003 (16.09.2003)	
International Patent Classification (IPC) or both national classification and IPC			
IPC(7): B29C 33/40; A43B 13/38 and US Cl.: 264/219, 222, 223; 36/43			
Applicant			
BARAK, YEHOASHUA			

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Date of completion of this opinion 30 October 2005 (30.10.2005)	Authorized officer DEBORAH A. THOMAS Michael Colaianni PARALEGAL SPECIALIST GROUP 1000 Telephone No. 571-272-1100 <i>Det</i>
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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/IL04/00822

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
- ☐ filed together with the international application in electronic form.
- ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IL04/00822

Box No. V Reasoned statement under Rule 43 *bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-8</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-8</u>	NO
Industrial applicability (IA)	Claims <u>1-8</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1-8 lack novelty under PCT Article 33(2) as being anticipated by Schenkl (PS Patent No. 4,702,255).

With respect to Claim 1 and 5, Schenkl teaches that an insole is made from a representation made from a plaster impression of a human foot and that the insole made from the representation covers the heel, forefoot, and metatarsal region (see Abstract and col. 4, lines 20-34 and 51-65). As the insole includes the metatarsal covering area, this portion is analogous to the insert claimed by Applicant. The ability of the insole to create enough space for the foot to complete a step with significantly reduced bending of the foot area of the five metatarsal heads of the forefoot is inherent in Schenkl principally because Schenkl teaches the same process.

With respect to Claim 2 and 6, Schenkl teaches making to a thickness is 4.8 to 6.4 mm, which reads on Applicant's range of 3 to 35 mm (see col. 4, lines 20-34).

With respect to Claim 3 and 7, Schenkl teaches that as the insole's plaster impression is done of the person for whom the orthotic is being made, the insole made from a special cast for each individual (see col. 4, lines 51-65). As the shape of the foot is transferred to the shape of the plaster impression and then the insole, the insole is necessarily fits the individual's foot structure.

With respect to Claims 4 and 8, Schenkl teaches that the product is made for an individual user, is custom fit, and is available in many sizes, which would necessarily mean that the insoles would be as varied in size and be used in the shoes varying in size as much as the fitted individual's feet varied in size (see col. 4, lines 20-34).

Claims 1-8 lack an inventive step under PCT Article 33(3) as being obvious over Schenkl (PS Patent No. 4,702,255) for the reasons previously described.

Claims 1-8 have industrial applicability as defined by PCT Article 33(4). They have readily apparent industrial applicability.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/IL04/00822

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

Claim 1 objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: Line three of the claim should state "creating a cast of the foot in plaster" to correct grammatical errors. Line 6 and 7 should state "foot in the area of the five" to correct the grammatical and typographical errors. Line nine of the claim should state "includes" to correct the grammatical error.

Claim 3 objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: Line one of the claim should state "fit the personal" to correct a grammatical error.

Claim 4 objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: Line two of the claim should state "insert sizes available" to correct a grammatical error.

Claim 8 objected to under PCT Rule 66.2(a)(iii) as containing the following defect(s) in the form or contents thereof: Line two of the claim should state "each shoe size" to correct a spelling error.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/IL04/00822

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the questions whether the claims are fully supported by the description, are made:

Claim 2 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because claim 2 indefinite for the following reason(s): The size specified is not specified in terms of the dimensional size is being measured (width/length/thickness). For purposes of examination, the examiner interprets the size to mean thickness.

Claims 7 and 8 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because claims 7 and 8 indefinite for the following reason(s): The claims appear to be directed to the method of creating an insole yet claim literally "the system". For purposes of examination, the examiner interprets the claims as being directed to a method.

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under Article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article," "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended ?

Under Article 19, only the claims may be amended

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Preliminary Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When ? Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments ?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How ? Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments ?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.